

## Email from Bruce C. Jenkins - 5/10/10

Dear Senator Valentine and Representative Dunnigan and others of the Business and Labor Committee and interested parties,

By way of brief introduction, I am the Vice-Chair of the Utah CAI Legislative Action Committee (UtahCAILAC) and the chair of the legislative drafting committee. I have been the volunteer drafter of UCIOA over the last few years – initially while with my firm of Jenkins Ronnow Jensen and Bayles, LLP and now as the managing partner with my merged practice in Vial Fotheringham SG, LLP. I appreciate the opportunity to appear at the hearing before the Business and Labor Committee on May 19th. In advance of the hearing I thought it may be useful for you to have a brief overview of UCIOA – see attached. I hope this overview is helpful in preparing any questions you may have for the hearing. Also, if I can be of direct assistance to you before or after the hearing please feel free to contact me. (I will, however, be out of town Tuesday through Friday of this week).

Sincerely,

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Utah Common Ownership Interest Act - UCIOA / SB 182  
(Introduction and Summary)

The purpose of UCIOA is to deal, in a single act, with all forms of residential common interest ownership: (i) condominiums; (ii) planned communities; and (iii) cooperatives. Collectively, these three forms of common ownership communities are referred to as “Common Interest Communities,” or more commonly “HOA’s.” Though they differ in how the owner hold “title” to an interest in real property, all three Common Interest Communities share commonalities in their creation and governance. And all have common or interdependent relationships necessary for the operation of the project and are best dealt with under a single act, rather than multiple acts. Even this session, problems in dealing with multiple acts for Common Interest Communities have been highlighted in SB161, HB 280 and HB 181.

Utah’s UCIOA is modeled after the Uniform Common Interest Ownership Act (developed by a multi-discipline national laws committee, including a representative from Utah) and draws significantly from the best of the Utah Condominium Ownership Act (the “Condominium Act”) and the Utah Community Association Act (the “Association Act”), both of which UCIOA will replace. Additionally, for the first time in Utah, UCIOA addresses the cooperative form of “real property” ownership. Through the drafting process care has been taken, where appropriate, to deal separately with condominiums, planned communities and cooperatives.

As an omnibus bill, UCIOA has been part of a four year drafting and vetting process, the last two years involving representatives from the HOA, home building, development, realtor, apartment association and insurance industries regularly participating in joint drafting meetings nearly every second or third month. Representatives from the timeshare industry and other industries have also participated.

The intent of UCIOA is three fold: (i) to provide a common language (definitions) for all involved with Common Interest Communities, (ii) to provide for the orderly creation of all Common Interest Communities through Declarations (CC&Rs), Plat Maps and other governing documents – in large part UCIOA has adapted to all Common Interest Communities the well established and prudent procedure for establishing condominiums through CC&Rs, Plats, etc. embodied in the current Condo Act; and (iii) to provide governance standards for Common Interest Communities, including (a) collection of common expense assessments, (b) reserve funding (optional), (c) uniformity in insurance, and (d) consistency in rulemaking.

UCIOA does this while preserving the right to contract by allowing developers the right to include in CC&Rs special development rights and restrictions important to the character of the community.